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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,805	09/26/2000	Scott C. Harris	RTA/SCH	3717
23844	7590	09/24/2008		
SCOTT C HARRIS P O BOX 927649 SAN DIEGO, CA 92192			EXAMINER GARCIA, ERNESTO	
			ART UNIT 3679	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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SEP 24 2008

Scott C. Harris
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San Diego, CA 92192

TECHNOLOGY CENTER 3600

In re Application of	:
Scott C. Harris	:
Application No. 09/669,805	:
Filed: September 26, 2000	:
Attorney Docket No.: RTA/SCH	:
For: REAL TIME AUCTION WITH END GAME	:
	: DECISION ON PETITION
	: TO INVOKE SUPERVISORY
	: AUTHORITY
	: UNDER 37 CFR 1.181

This is in response to applicant's petition to invoke supervisory authority under 37 CFR 1.181 filed July 3, 2008 requesting review of drawings previously submitted.

The petition is **DISMISSED AS UNTIMELY**.

At the outset, 37 CFR 1.181 states, in pertinent part:

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Applicant has filed a petition on July 3, 2008 seeking redress from examiner actions occurring back on August 28, 2007 and September 17, 2007. Thus, this petition has been filed approximately ten months after the actions now being complained about. There is no explanation from applicant as to why this petition was not earlier filed and the filing of this petition is way outside the two-month period from mailing date of the actions complained about that the petition should have been filed within.

Further, it is noted upon a review of the record that prosecution has proceeded since the occurrence of the actions now being complained about with applicant filing a Notice of Appeal on October 15, 2007, a first appeal brief on December 16, 2007, and a second appeal brief on April 11, 2008. However, the filing of the appeal notice and the appeal briefs does not grant additional time or otherwise restart the time for filing this petition.

~~In view of the fact that this petition has been filed approximately ten months after the occurrence~~
of the actions being complained about, the petition is untimely and will not be considered. The petition is dismissed as untimely.

Nevertheless, cursory review of the instant petition reveals that applicant's allegations are unfounded and incorrect. In particular and contrary to applicant's allegations on page 1, the filing of annotated sheets of drawings only does not comply with the revised amendment practice in effect since July 30, 2003. Further, review of page 4 of the Office action of May 15, 2007 reveals that the first paragraph thereof made clear that drawing changes must be made by the presentation of drawing sheets that complied with 37 CFR 1.84. Nothing on this page indicates that annotated sheets may be submitted in lieu of replacement sheets. Further, the proposed drawing correction practice in effect **prior** to July 30, 2003 was explicitly eliminated by the revised amendment practice that went into effect on July 30, 2003. See *Changes to Implement Electronic Maintenance of Official Patent Application Records*, 68 Fed. Reg. 38611, 38618 (June 30, 2003), 1272 Off. Gaz. Pat. Office 197 (July 29, 2003) (final rule). Further, 37 CFR 1.121(d) is clear in its requirement that corrected drawings, not proposed corrections, must be filed and that these corrected drawings must comply with the provisions of 37 CFR 1.84.


Applicant is correct that "replacement" drawing sheets were submitted on September 17, 2007. However, these "replacement" sheets consisted of taking the previous annotated sheets and hand scribbling out the word "annotated" and hand writing in the word "replacement". Thus, applicant merely resubmitted the annotated drawing sheets under the guise of being replacement sheets. Be that as it may, the relabeled and resubmitted "replacement" drawing sheets failed to comply with the provisions of 37 CFR 1.121(d) and 37 CFR 1.84. The submitted sheets were neither formal drawings nor acceptable as formal drawings and clearly included marked up changes in contradiction to the rules governing drawing submissions.

Contrary to applicant's allegation that there was nothing in the information that requires the replacement drawings to be free of markings, the official U.S. Patent and Trademark Office form PTOL-324 (Notice of Non-Compliant Amendment) clearly states at box 3B that markings on replacement sheets are not permitted. This box was checked by the examiner in both instances. Further, 37 CFR 1.121(d) requires corrected drawings to be submitted in compliance with 37 CFR 1.84, and 37 CFR 1.84 has never permitted formal drawings to include markings showing the changes being made.

Thus, not only is the instant petition untimely, the allegations made therein are incorrect because corrected drawings have not been properly submitted and the old practice of submitting proposed drawing corrections was eliminated as of July 30, 2003.

In summary, the instant petition is **DISMISSED AS UNTIMELY**.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel P. Stodola at (571) 272-7087.


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SNM/DS: 9/17/08

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